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Paper No. 10

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In re Application of  
Jigish D. Trivedi et al.  
Application No. 10/000,479  
Filed: October 24, 2001  
Attorney Docket No. 3439.4US (97-936.3)      }

DECISION ON PETITION

This is a decision on the petition, filed August 18, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of November 5, 2002. A Notice of Abandonment was mailed on August 13, 2003.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt which acknowledges receipt of a response along with a Supplemental Information Disclosure Statement, a form PTO/SB/08A, and copies of the cited references by the US Patent and Trademark Office (USPTO) on February 10, 2003.

The review of the application file reveals that the IDS, the form PTO/SB/08A and copies of the cited references were received and matched therewith. However, the response was not associated with the application file. A copy of the papers received in the USPTO on February 10, 2003 was submitted with the petition.

M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost after receipt thereof. The application was not abandoned in fact.

For above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response.

  
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